

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 840 Session of 2015

INTRODUCED BY ARGALL, SCHWANK, TEPLITZ, WOZNIAK, FONTANA, SCAVELLO, COSTA, YUDICHAK, BLAKE AND LEACH, JUNE 8, 2015

AS AMENDED ON THIRD CONSIDERATION, OCTOBER 18, 2016

AN ACT

1 ~~Amending Title 75 (Vehicles) of the Pennsylvania Consolidated~~ <--
2 ~~Statutes, in preliminary provisions, further providing for~~
3 ~~definitions; and, in rules of the road in general, further~~
4 ~~providing for speed timing devices and providing for~~
5 ~~automated speed enforcement systems.~~

6 AMENDING TITLE 75 (VEHICLES) OF THE PENNSYLVANIA CONSOLIDATED <--
7 STATUTES, IN PRELIMINARY PROVISIONS, FURTHER PROVIDING FOR
8 DEFINITIONS; AND, IN RULES OF THE ROAD IN GENERAL, FURTHER
9 PROVIDING FOR SPEED TIMING DEVICES AND PROVIDING FOR
10 AUTOMATED SPEED ENFORCEMENT SYSTEMS.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 ~~Section 1. Section 102 of Title 75 of the Pennsylvania~~ <--
14 ~~Consolidated Statutes is amended by adding definitions to read:~~
15 ~~§ 102. Definitions.~~

16 ~~Subject to additional definitions contained in subsequent~~
17 ~~provisions of this title which are applicable to specific~~
18 ~~provisions of this title, the following words and phrases when~~
19 ~~used in this title shall have, unless the context clearly~~
20 ~~indicates otherwise, the meanings given to them in this section:~~

21 * * *

22 ~~"Automated speed enforcement system." An electronic traffic~~

1 ~~sensor system that:~~

2 ~~(1) is able to automatically detect vehicles exceeding~~
3 ~~the posted speed limit with a type of speed timing device;~~

4 ~~and~~

5 ~~(2) records the vehicle's image, rear, license plate,~~
6 ~~location, date, time and speed.~~

7 ~~"Automated speed enforcement work area." The portion of a~~
8 ~~work zone where construction, maintenance or utility workers are~~
9 ~~located on the roadway, berm or shoulder and workers are~~
10 ~~adjacent to an active travel lane and where an automated speed~~
11 ~~enforcement system is active. For the purposes of this~~
12 ~~definition, workers shall also be considered adjacent to an~~
13 ~~active travel lane where workers are present and are protected~~
14 ~~by a traffic barrier.~~

15 ~~* * *~~

16 ~~Section 2. Section 3368(c)(2) of Title 75 is amended and the~~
17 ~~subsection is amended by adding a paragraph to read:~~

18 ~~§ 3368. Speed timing devices.~~

19 ~~* * *~~

20 ~~(c) Mechanical, electrical and electronic devices~~
21 ~~authorized.~~

22 ~~* * *~~

23 ~~(2) Except as otherwise provided in paragraph (3),~~
24 ~~electronic devices such as radio microwave devices [(],~~
25 ~~commonly referred to as electronic speed meters or radar[)],~~
26 ~~may be used only as part of an automated speed enforcement~~
27 ~~system or by members of the Pennsylvania State Police.~~

28 ~~* * *~~

29 ~~(5) Light detection and ranging devices, commonly~~
30 ~~referred to as LIDAR, may be used only as part of an~~

1 ~~automated speed enforcement system.~~

2 ~~* * *~~

3 ~~Section 3. Title 75 is amended by adding a section to read:~~
4 ~~§ 3368.1. Automated speed enforcement systems.~~

5 ~~(a) Establishment. A program is established to provide for~~
6 ~~automated speed enforcement systems in automated speed~~
7 ~~enforcement work areas.~~

8 ~~(b) Applicability. This section shall apply only to~~
9 ~~automated speed enforcement work areas on interstate highways~~
10 ~~under the jurisdiction of the department or interstate highways~~
11 ~~or freeways under the jurisdiction of the Pennsylvania Turnpike~~
12 ~~Commission. An automated speed enforcement system shall not be~~
13 ~~used unless:~~

14 ~~(1) At least two appropriate warning signs are~~
15 ~~conspicuously placed before the automated speed enforcement~~
16 ~~work area notifying the public that an automated speed~~
17 ~~enforcement device is in use.~~

18 ~~(2) A notice identifying the location of the automated~~
19 ~~speed enforcement system is posted on the department's or~~
20 ~~Pennsylvania Turnpike Commission's publicly accessible~~
21 ~~Internet website throughout the period of use.~~

22 ~~(c) Liability. Driving in excess of the posted speed limit~~
23 ~~in an automated speed enforcement work area by at least 11 miles~~
24 ~~per hour is a violation of this section.~~

25 ~~(d) Notice of violation.~~

26 ~~(1) (i) An action to enforce this section shall be~~
27 ~~initiated by an administrative notice of violation to the~~
28 ~~registered owner of a vehicle identified by an automated~~
29 ~~speed enforcement system as violating this section. A~~
30 ~~notice of violation based upon inspection of recorded~~

~~images produced by an automated speed enforcement system and sworn or affirmed by an authorized representative of the department or the Pennsylvania Turnpike Commission shall be prima facie evidence of the facts contained in it.~~

~~(ii) The notice of violation must include written verification that the automated speed enforcement system was operating correctly at the time of the alleged violation and the date of the most recent inspection that confirms it to be operating properly.~~

~~(iii) The following shall be attached to the notice of violation:~~

~~(A) A copy of the recorded image showing the vehicle with its license plate visible.~~

~~(B) The registration number and state of issuance of the vehicle registration.~~

~~(C) The date, time and place of the alleged violation.~~

~~(D) Notice that the violation charged is under this section.~~

~~(E) Instructions for return of the notice of violation.~~

~~(2) In the case of a violation involving a motor vehicle registered under the laws of this Commonwealth, the notice of violation shall be mailed within 30 days after the commission of the violation or within 30 days after the discovery of the identity of the registered owner, whichever is later, to the address of the registered owner as listed in the records of the department.~~

~~(3) In the case of a violation involving a motor vehicle~~

1 ~~registered in a jurisdiction other than this Commonwealth,~~
2 ~~the notice of violation shall be mailed within 30 days after~~
3 ~~the discovery of the identity of the registered owner to the~~
4 ~~address of the registered owner as listed in the records of~~
5 ~~the official in the jurisdiction having charge of the~~
6 ~~registration of the vehicle.~~

7 ~~(4) A notice of violation shall be invalid unless~~
8 ~~provided to an owner within 90 days of the offense.~~

9 ~~(5) The notice shall include the following text:~~

10 ~~This notice shall be returned personally, by mail or by~~
11 ~~an agent duly authorized in writing, within 30 days of~~
12 ~~issuance. A hearing may be obtained upon the written~~
13 ~~request of the registered owner.~~

14 ~~(6) Notice of violation must be sent by first class~~
15 ~~mail. A manual or automatic record of mailing prepared by the~~
16 ~~system administrator in the ordinary course of business shall~~
17 ~~be prima facie evidence of mailing and shall be admissible in~~
18 ~~any judicial or administrative proceeding as to the facts~~
19 ~~contained in it.~~

20 ~~(e) Penalty.~~

21 ~~(1) The penalty of a violation under this section shall~~
22 ~~be a fine of \$100, and the fine shall not be subject to 42-~~
23 ~~Pa.C.S. § 3571 (relating to Commonwealth portion of fines,~~
24 ~~etc.) or 3573 (relating to municipal corporation portion of~~
25 ~~fines, etc.).~~

26 ~~(2) The fine is not authorized during~~
27 ~~times when the automated speed enforcement work area~~
28 ~~is not active.~~

29 ~~(3) A penalty imposed under this section shall not be:~~

30 ~~(i) deemed a criminal conviction;~~

1 ~~(ii) be made part of the operating record under~~
2 ~~section 1535 (relating to schedule of convictions and~~
3 ~~points) of the individual upon whom the penalty is~~
4 ~~imposed;~~

5 ~~(iii) the subject of merit rating for insurance~~
6 ~~purposes; or~~

7 ~~(iv) authorize imposition of surcharge points in the~~
8 ~~provision of motor vehicle insurance coverage.~~

9 ~~(f) Limitations.~~

10 ~~(1) Recorded images collected as part of the automated~~
11 ~~speed enforcement system may record only violations of this~~
12 ~~section and may not be used for any other surveillance~~
13 ~~purposes. The restrictions set forth in this paragraph shall~~
14 ~~not preclude a court of competent jurisdiction from issuing~~
15 ~~an order directing that the information be provided to law~~
16 ~~enforcement officials, if the information is requested solely~~
17 ~~in connection with a criminal law enforcement action and is~~
18 ~~reasonably described.~~

19 ~~(2) Notwithstanding any other provision of law,~~
20 ~~information gathered and maintained under this section which~~
21 ~~is kept by the Commonwealth, its authorized agents or its~~
22 ~~employees, including recorded images, written records,~~
23 ~~reports or facsimiles, names and addresses shall be for the~~
24 ~~exclusive purpose of discharging its duties under this~~
25 ~~section. The information shall not be deemed a public record~~
26 ~~under the act of February 14, 2008 (P.L.6, No.3), known as~~
27 ~~the Right to Know Law. The information shall not be~~
28 ~~discoverable by court order or otherwise or be admissible as~~
29 ~~evidence in any proceeding except to determine liability~~
30 ~~under this section. The restrictions set forth in this~~

~~paragraph shall not preclude a court of competent jurisdiction from issuing an order directing that the information be provided to law enforcement officials, if the information is requested solely in connection with a criminal law enforcement action and is reasonably described.~~

~~(3) Recorded images obtained through the use of automated speed enforcement systems deployed as a means of promoting traffic safety in automated speed enforcement work areas shall be destroyed within one year of final disposition of a notice of violation, except that images subject to a court order under paragraph (1) or (2) shall be destroyed within two years after the date of the order, unless further extended by court order.~~

~~(4) Notwithstanding any other provision of law, registered vehicle owner information obtained as a result of the operation of an automated speed enforcement system shall be the exclusive property of the department or Pennsylvania Turnpike Commission and may not be used for any purpose other than prescribed in this section.~~

~~(5) A violation of this subsection shall constitute a third degree misdemeanor punishable by a \$500 fine. Each violation shall constitute a separate and distinct offense.~~

~~(g) Defenses.~~

~~(1) It shall be a defense to a violation under this section that the vehicle was reported to a police department as stolen prior to the time the violation occurred and was not recovered prior to that time.~~

~~(2) It shall be a defense to a violation under this section that the person receiving the notice of violation was not the owner of the vehicle at the time of the offense.~~

~~(h) Authority and duties of department and Pennsylvania
Turnpike Commission.~~

~~(1) The department and Pennsylvania Turnpike Commission
shall each establish a five year automated speed enforcement
system program not later than 18 months following the
effective date of this section.~~

~~(2) (i) The department and Pennsylvania Turnpike
Commission may each promulgate regulations for the
certification and the use of automated speed enforcement
systems.~~

~~(ii) In order to facilitate the prompt
implementation of this section, regulations promulgated
by the department and Pennsylvania Turnpike Commission
under this section shall be deemed temporary regulations
and not subject to:~~

~~(A) Sections 201, 202 and 203 of the act of July
31, 1968 (P.L.769, No.240), referred to as the
Commonwealth Documents Law.~~

~~(B) The act of June 25, 1982 (P.L.633, No.181),
known as the Regulatory Review Act.~~

~~(3) (i) The department and Pennsylvania Turnpike
Commission shall each serve directly or through a
contracted private service as the system administrator of
the program. Compensation under a contract authorized by
this paragraph shall be based only upon the value of
equipment and services provided or rendered in support of
the automated speed enforcement system program and may
not be based in any part upon the quantity of notices of
violation issued or amount of fines imposed or generated.~~

~~(ii) The system administrator shall prepare and~~

1 ~~issue notices of violation.~~

2 ~~(iii) The system administrator shall remit fines~~
3 ~~administratively paid under this section, minus the~~
4 ~~system administrator's actual operation and maintenance~~
5 ~~costs required under this section, on a reasonable~~
6 ~~payment schedule for the duration of the five year~~
7 ~~program to the department or Pennsylvania Turnpike~~
8 ~~Commission for deposit into the Motor License Fund.~~

9 ~~(iv) The system administrator shall provide an~~
10 ~~appropriate printed form by which owners may challenge a~~
11 ~~notice of violation and convenient hearing hours and~~
12 ~~times in each of the following metropolitan areas for~~
13 ~~challenges to be heard as provided in this section: Erie,~~
14 ~~Harrisburg, Philadelphia, Pittsburgh and Scranton. the~~
15 ~~form may be included with or as part of the notice of~~
16 ~~violation.~~

17 ~~(4) Not later than April 1 annually, the department and~~
18 ~~Pennsylvania Turnpike Commission shall submit a report on the~~
19 ~~program for the preceding calendar year to the chairperson~~
20 ~~and minority chairperson of the Transportation Committee of~~
21 ~~the Senate and the chairperson and minority chairperson of~~
22 ~~the Transportation Committee of the House of Representatives.~~
23 ~~The report shall be a public record under the Right to Know~~
24 ~~Law and include:~~

25 ~~(i) The number of vehicular accidents and related~~
26 ~~serious injuries and deaths in all work zones and in~~
27 ~~automated speed enforcement work areas in which the~~
28 ~~program operated.~~

29 ~~(ii) Speed data.~~

30 ~~(iii) The number of notices of violation issued.~~

1 ~~(iv) The amount of fines imposed and collected.~~

2 ~~(v) Amounts paid under contracts authorized by this~~
3 ~~section.~~

4 ~~(i) Payment of fine.~~

5 ~~(1) An owner may admit responsibility for the violation~~
6 ~~and pay the fine provided in the notice personally, through~~
7 ~~an authorized agent, electronically or by mailing both~~
8 ~~payment and the notice of violation to the system~~
9 ~~administrator.~~

10 ~~(2) Payment by mail must be made only by money order,~~
11 ~~credit card or check made payable to the Commonwealth.~~

12 ~~(3) Payment of the fine shall operate as a final~~
13 ~~disposition of the case.~~

14 ~~(4) If payment is not received within 90 days of~~
15 ~~original notice, the department or Pennsylvania Turnpike~~
16 ~~Commission may turn the matter over to applicable credit~~
17 ~~collection agencies.~~

18 ~~(j) Contest.~~

19 ~~(1) An owner may, within 30 days of the mailing of the~~
20 ~~notice, request a hearing to contest liability by appearing~~
21 ~~before the system administrator either personally or by an~~
22 ~~authorized agent or by mailing a request in writing on the~~
23 ~~prescribed form. Appearances in person shall be only at the~~
24 ~~locations and times set by the system administrator.~~

25 ~~(2) Upon receipt of a hearing request, the system~~
26 ~~administrator shall in a timely manner schedule the matter~~
27 ~~before a hearing officer designated by the department or~~
28 ~~Pennsylvania Turnpike Commission. Written notice of the date,~~
29 ~~time and place of hearing must be presented or sent by first~~
30 ~~class mail to the owner.~~

1 ~~(3) The hearing shall be informal and the rules of~~
2 ~~evidence shall not apply. The decision of the hearing officer~~
3 ~~shall be final, subject to the right of the owner to appeal~~
4 ~~the decision.~~

5 ~~(4) If the owner requests in writing that the decision~~
6 ~~of the hearing officer be appealed, the system administrator~~
7 ~~shall file the notice of violation and supporting documents~~
8 ~~with the office of the magisterial district judge for the~~
9 ~~magisterial district where the violation occurred, and the~~
10 ~~magisterial district judge shall hear and decide the matter~~
11 ~~de novo.~~

12 ~~(k) Work zone safety funding. Each year, the Governor shall~~
13 ~~recommend, pursuant to his authority under section 613 of the~~
14 ~~act of April 9, 1929 (P.L.177, No.175), known as The~~
15 ~~Administrative Code of 1929, an appropriation from the Motor~~
16 ~~License Fund for work zone safety activities. The recommendation~~
17 ~~may not exceed the amount of fines remitted by the system~~
18 ~~administrator to the department or the Pennsylvania Turnpike~~
19 ~~Commission in the prior fiscal year from penalties imposed under~~
20 ~~subsection (e).~~

21 ~~(l) Expiration. This section shall expire five years from~~
22 ~~the effective date of this section.~~

23 Section 4. ~~The Secretary of Transportation or the Chairman~~
24 ~~of the Pennsylvania Turnpike Commission shall publish a notice~~
25 ~~in the Pennsylvania Bulletin when the first automated speed~~
26 ~~enforcement system is operational in this Commonwealth.~~

27 Section 5. ~~This act shall take effect as follows:~~

28 ~~(1) The addition of 75 Pa.C.S. § 3368.1(e) shall take~~
29 ~~effect 60 days after publication in the Pennsylvania Bulletin~~
30 ~~of the notice under section 4.~~

1 ~~(2) The addition of 75 Pa.C.S. § 3368.1(h) (2) shall take~~
2 ~~effect in 45 days.~~

3 ~~(3) Section 4 and this section shall take effect~~
4 ~~immediately.~~

5 ~~(4) The remainder of this act shall take effect in 60~~
6 ~~days.~~

7 SECTION 1. SECTION 102 OF TITLE 75 OF THE PENNSYLVANIA <--
8 CONSOLIDATED STATUTES IS AMENDED BY ADDING DEFINITIONS TO READ:
9 § 102. DEFINITIONS.

10 SUBJECT TO ADDITIONAL DEFINITIONS CONTAINED IN SUBSEQUENT
11 PROVISIONS OF THIS TITLE WHICH ARE APPLICABLE TO SPECIFIC
12 PROVISIONS OF THIS TITLE, THE FOLLOWING WORDS AND PHRASES WHEN
13 USED IN THIS TITLE SHALL HAVE, UNLESS THE CONTEXT CLEARLY
14 INDICATES OTHERWISE, THE MEANINGS GIVEN TO THEM IN THIS SECTION:

15 * * *

16 "AUTOMATED SPEED ENFORCEMENT SYSTEM." AN ELECTRONIC TRAFFIC
17 SENSOR SYSTEM THAT:

18 (1) IS ABLE TO AUTOMATICALLY DETECT VEHICLES EXCEEDING
19 THE POSTED SPEED LIMIT WITH A TYPE OF SPEED TIMING DEVICE;
20 AND

21 (2) RECORDS THE VEHICLE'S REAR LICENSE PLATE, LOCATION,
22 DATE, TIME AND SPEED.

23 "AUTOMATED SPEED ENFORCEMENT WORK AREA." THE PORTION OF AN
24 ACTIVE WORK ZONE WHERE CONSTRUCTION, MAINTENANCE OR UTILITY
25 WORKERS ARE LOCATED ON THE ROADWAY, BERM OR SHOULDER AND WORKERS
26 ARE ADJACENT TO AN ACTIVE TRAVEL LANE AND WHERE AN AUTOMATED
27 SPEED ENFORCEMENT SYSTEM IS ACTIVE. FOR THE PURPOSES OF THIS
28 DEFINITION, WORKERS SHALL ALSO BE CONSIDERED ADJACENT TO AN
29 ACTIVE TRAVEL LANE WHERE WORKERS ARE PRESENT AND ARE PROTECTED
30 BY A TRAFFIC BARRIER.

1 * * *

2 SECTION 2. SECTION 3368(C)(2) OF TITLE 75 IS AMENDED AND THE
3 SUBSECTION IS AMENDED BY ADDING A PARAGRAPH TO READ:

4 § 3368. SPEED TIMING DEVICES.--

5 * * *

6 (C) MECHANICAL, ELECTRICAL AND ELECTRONIC DEVICES
7 AUTHORIZED.--

8 * * *

9 (2) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (3),
10 ELECTRONIC DEVICES SUCH AS RADIO-MICROWAVE DEVICES
11 [()] COMMONLY REFERRED TO AS ELECTRONIC SPEED METERS OR
12 RADAR []] MAY BE USED ONLY AS PART OF AN AUTOMATED SPEED
13 ENFORCEMENT SYSTEM OR BY MEMBERS OF THE PENNSYLVANIA STATE
14 POLICE.

15 * * *

16 (5) LIGHT DETECTION AND RANGING DEVICES, COMMONLY
17 REFERRED TO AS LIDAR, MAY BE USED ONLY AS PART OF AN
18 AUTOMATED SPEED ENFORCEMENT SYSTEM.

19 * * *

20 SECTION 3. TITLE 75 IS AMENDED BY ADDING A SECTION TO READ:
21 § 3368.1. AUTOMATED SPEED ENFORCEMENT SYSTEMS.

22 (A) ESTABLISHMENT.--A PROGRAM IS ESTABLISHED TO PROVIDE FOR
23 AUTOMATED SPEED ENFORCEMENT SYSTEMS IN ACTIVE WORK AREAS.

24 (B) APPLICABILITY.--THIS SECTION SHALL APPLY ONLY TO
25 AUTOMATED SPEED ENFORCEMENT WORK AREAS ON INTERSTATE HIGHWAYS
26 UNDER THE JURISDICTION OF THE DEPARTMENT OR INTERSTATE HIGHWAYS
27 OR FREEWAYS UNDER THE JURISDICTION OF THE PENNSYLVANIA TURNPIKE
28 COMMISSION. AN AUTOMATED SPEED ENFORCEMENT SYSTEM SHALL NOT BE
29 USED UNLESS:

30 (1) AT LEAST TWO APPROPRIATE WARNING SIGNS ARE

1 CONSPICUOUSLY PLACED BEFORE THE ACTIVE WORK AREA NOTIFYING
2 THE PUBLIC THAT AN AUTOMATED SPEED ENFORCEMENT DEVICE IS IN
3 USE.

4 (2) A NOTICE IDENTIFYING THE LOCATION OF THE AUTOMATED
5 SPEED ENFORCEMENT SYSTEM IS POSTED ON THE DEPARTMENT'S OR
6 PENNSYLVANIA TURNPIKE COMMISSION'S PUBLICLY ACCESSIBLE
7 INTERNET WEBSITE THROUGHOUT THE PERIOD OF USE.

8 (C) LIABILITY.--DRIVING IN EXCESS OF THE POSTED SPEED LIMIT
9 IN AN AUTOMATED SPEED ENFORCEMENT WORK AREA BY AT LEAST 11 MILES
10 PER HOUR IS A VIOLATION OF THIS SECTION.

11 (D) NOTICE OF VIOLATION.--

12 (1) (I) AN ACTION TO ENFORCE THIS SECTION SHALL BE
13 INITIATED BY AN ADMINISTRATIVE NOTICE OF VIOLATION TO THE
14 REGISTERED OWNER OF A VEHICLE IDENTIFIED BY AN AUTOMATED
15 SPEED ENFORCEMENT SYSTEM AS VIOLATING THIS SECTION. A
16 NOTICE OF VIOLATION BASED UPON INSPECTION OF RECORDED
17 IMAGES PRODUCED BY AN AUTOMATED SPEED ENFORCEMENT SYSTEM
18 AND SWORN OR AFFIRMED BY AN AUTHORIZED EMPLOYEE OF THE
19 DEPARTMENT OR THE PENNSYLVANIA TURNPIKE COMMISSION SHALL
20 BE PRIMA FACIE EVIDENCE OF THE FACTS CONTAINED IN IT. THE
21 AUTHORIZED EMPLOYEE OF THE DEPARTMENT OR THE PENNSYLVANIA
22 TURNPIKE COMMISSION MUST BE UNDER CONTRACT TO THE
23 DEPARTMENT OR THE PENNSYLVANIA TURNPIKE COMMISSION.

24 (II) THE NOTICE OF VIOLATION MUST INCLUDE WRITTEN
25 VERIFICATION THAT THE AUTOMATED SPEED ENFORCEMENT SYSTEM
26 WAS OPERATING CORRECTLY AT THE TIME OF THE ALLEGED
27 VIOLATION AND THE DATE OF THE MOST RECENT INSPECTION THAT
28 CONFIRMS IT TO BE OPERATING PROPERLY.

29 (III) THE FOLLOWING SHALL BE ATTACHED TO THE NOTICE
30 OF VIOLATION:

1 (A) A COPY OF THE RECORDED IMAGE SHOWING THE
2 VEHICLE WITH ITS LICENSE PLATE VISIBLE.

3 (B) THE REGISTRATION NUMBER AND STATE OF
4 ISSUANCE OF THE VEHICLE REGISTRATION.

5 (C) THE DATE, TIME AND PLACE OF THE ALLEGED
6 VIOLATION.

7 (D) NOTICE THAT THE VIOLATION CHARGED IS UNDER
8 THIS SECTION.

9 (E) INSTRUCTIONS FOR RETURN OF THE NOTICE OF
10 VIOLATION.

11 (2) IN THE CASE OF A VIOLATION INVOLVING A MOTOR VEHICLE
12 REGISTERED UNDER THE LAWS OF THIS COMMONWEALTH, THE NOTICE OF
13 VIOLATION SHALL BE MAILED WITHIN 30 DAYS AFTER THE COMMISSION
14 OF THE VIOLATION OR WITHIN 30 DAYS AFTER THE DISCOVERY OF THE
15 IDENTITY OF THE REGISTERED OWNER, WHICHEVER IS LATER, TO THE
16 ADDRESS OF THE REGISTERED OWNER AS LISTED IN THE RECORDS OF
17 THE DEPARTMENT.

18 (3) IN THE CASE OF A VIOLATION INVOLVING A MOTOR VEHICLE
19 REGISTERED IN A JURISDICTION OTHER THAN THIS COMMONWEALTH,
20 THE NOTICE OF VIOLATION SHALL BE MAILED WITHIN 30 DAYS AFTER
21 THE DISCOVERY OF THE IDENTITY OF THE REGISTERED OWNER TO THE
22 ADDRESS OF THE REGISTERED OWNER AS LISTED IN THE RECORDS OF
23 THE OFFICIAL IN THE JURISDICTION HAVING CHARGE OF THE
24 REGISTRATION OF THE VEHICLE.

25 (4) A NOTICE OF VIOLATION SHALL BE INVALID UNLESS
26 PROVIDED TO AN OWNER WITHIN 90 DAYS OF THE OFFENSE.

27 (5) THE NOTICE SHALL INCLUDE THE FOLLOWING TEXT:
28 THIS NOTICE SHALL BE RETURNED PERSONALLY, BY MAIL OR BY
29 AN AGENT DULY AUTHORIZED IN WRITING, WITHIN 30 DAYS OF
30 ISSUANCE. A HEARING MAY BE OBTAINED UPON THE WRITTEN

1 REQUEST OF THE REGISTERED OWNER.

2 (6) NOTICE OF VIOLATION MUST BE SENT BY FIRST CLASS
3 MAIL. A MANUAL OR AUTOMATIC RECORD OF MAILING PREPARED BY THE
4 SYSTEM ADMINISTRATOR IN THE ORDINARY COURSE OF BUSINESS SHALL
5 BE PRIMA FACIE EVIDENCE OF MAILING AND SHALL BE ADMISSIBLE IN
6 ANY JUDICIAL OR ADMINISTRATIVE PROCEEDING AS TO THE FACTS
7 CONTAINED IN IT.

8 (E) PENALTY.--

9 (1) THE PENALTY OF A VIOLATION UNDER THIS SECTION SHALL
10 BE A FINE OF \$100, AND THE FINE SHALL NOT BE SUBJECT TO 42
11 PA.C.S. § 3571 (RELATING TO COMMONWEALTH PORTION OF FINES,
12 ETC.) OR 3573 (RELATING TO MUNICIPAL CORPORATION PORTION OF
13 FINES, ETC.).

14 (2) THE FINE IS NOT AUTHORIZED DURING TIMES WHEN THE
15 AUTOMATED SPEED ENFORCEMENT WORK AREA IS NOT ACTIVE.

16 (3) A PENALTY IMPOSED UNDER THIS SECTION SHALL NOT BE:

17 (I) DEEMED A CRIMINAL CONVICTION;

18 (II) BE MADE PART OF THE OPERATING RECORD UNDER
19 SECTION 1535 (RELATING TO SCHEDULE OF CONVICTIONS AND
20 POINTS) OF THE INDIVIDUAL UPON WHOM THE PENALTY IS
21 IMPOSED;

22 (III) THE SUBJECT OF MERIT RATING FOR INSURANCE
23 PURPOSES; OR

24 (IV) AUTHORIZE IMPOSITION OF SURCHARGE POINTS IN THE
25 PROVISION OF MOTOR VEHICLE INSURANCE COVERAGE.

26 (F) LIMITATIONS.--

27 (1) RECORDED IMAGES COLLECTED AS PART OF THE AUTOMATED
28 SPEED ENFORCEMENT SYSTEM MAY RECORD ONLY VIOLATIONS OF THIS
29 SECTION AND MAY NOT BE USED FOR ANY OTHER SURVEILLANCE
30 PURPOSES. THE RESTRICTIONS SET FORTH IN THIS PARAGRAPH SHALL

1 NOT PRECLUDE A COURT OF COMPETENT JURISDICTION FROM ISSUING
2 AN ORDER DIRECTING THAT THE INFORMATION BE PROVIDED TO LAW
3 ENFORCEMENT OFFICIALS, IF THE INFORMATION IS REQUESTED SOLELY
4 IN CONNECTION WITH A CRIMINAL LAW ENFORCEMENT ACTION AND IS
5 REASONABLY DESCRIBED.

6 (2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW,
7 INFORMATION GATHERED AND MAINTAINED UNDER THIS SECTION WHICH
8 IS KEPT BY THE COMMONWEALTH, ITS AUTHORIZED AGENTS OR ITS
9 EMPLOYEES, INCLUDING RECORDED IMAGES, WRITTEN RECORDS,
10 REPORTS OR FACSIMILES, NAMES AND ADDRESSES SHALL BE FOR THE
11 EXCLUSIVE PURPOSE OF DISCHARGING ITS DUTIES UNDER THIS
12 SECTION. THE INFORMATION SHALL NOT BE DEEMED A PUBLIC RECORD
13 UNDER THE ACT OF FEBRUARY 14, 2008 (P.L.6, NO.3), KNOWN AS
14 THE RIGHT-TO-KNOW LAW. THE INFORMATION SHALL NOT BE
15 DISCOVERABLE BY COURT ORDER OR OTHERWISE OR BE ADMISSIBLE AS
16 EVIDENCE IN ANY PROCEEDING EXCEPT TO DETERMINE LIABILITY
17 UNDER THIS SECTION. THE RESTRICTIONS SET FORTH IN THIS
18 PARAGRAPH SHALL NOT PRECLUDE A COURT OF COMPETENT
19 JURISDICTION FROM ISSUING AN ORDER DIRECTING THAT THE
20 INFORMATION BE PROVIDED TO LAW ENFORCEMENT OFFICIALS, IF THE
21 INFORMATION IS REQUESTED SOLELY IN CONNECTION WITH A CRIMINAL
22 LAW ENFORCEMENT ACTION AND IS REASONABLY DESCRIBED.

23 (3) RECORDED IMAGES OBTAINED THROUGH THE USE OF
24 AUTOMATED SPEED ENFORCEMENT SYSTEMS DEPLOYED AS A MEANS OF
25 PROMOTING TRAFFIC SAFETY IN AUTOMATED SPEED ENFORCEMENT WORK
26 AREAS SHALL BE DESTROYED WITHIN ONE YEAR OF FINAL DISPOSITION
27 OF A NOTICE OF VIOLATION, EXCEPT THAT IMAGES SUBJECT TO A
28 COURT ORDER UNDER PARAGRAPH (1) OR (2) SHALL BE DESTROYED
29 WITHIN TWO YEARS AFTER THE DATE OF THE ORDER, UNLESS FURTHER
30 EXTENDED BY COURT ORDER.

1 (4) NOTWITHSTANDING ANY OTHER PROVISION OF LAW,
2 REGISTERED VEHICLE OWNER INFORMATION OBTAINED AS A RESULT OF
3 THE OPERATION OF AN AUTOMATED SPEED ENFORCEMENT SYSTEM SHALL
4 BE THE EXCLUSIVE PROPERTY OF THE DEPARTMENT OR PENNSYLVANIA
5 TURNPIKE COMMISSION AND MAY NOT BE USED FOR ANY PURPOSE OTHER
6 THAN PRESCRIBED IN THIS SECTION.

7 (5) A VIOLATION OF THIS SUBSECTION SHALL CONSTITUTE A
8 THIRD-DEGREE MISDEMEANOR PUNISHABLE BY A \$500 FINE. EACH
9 VIOLATION SHALL CONSTITUTE A SEPARATE AND DISTINCT OFFENSE.

10 (G) DEFENSES.--

11 (1) IT SHALL BE A DEFENSE TO A VIOLATION UNDER THIS
12 SECTION THAT THE VEHICLE WAS REPORTED TO A POLICE DEPARTMENT
13 AS STOLEN PRIOR TO THE TIME THE VIOLATION OCCURRED AND WAS
14 NOT RECOVERED PRIOR TO THAT TIME.

15 (2) IT SHALL BE A DEFENSE TO A VIOLATION UNDER THIS
16 SECTION THAT THE PERSON RECEIVING THE NOTICE OF VIOLATION WAS
17 NOT THE OWNER OF THE VEHICLE AT THE TIME OF THE OFFENSE.

18 (H) AUTHORITY AND DUTIES OF DEPARTMENT AND PENNSYLVANIA
19 TURNPIKE COMMISSION.--

20 (1) THE DEPARTMENT AND PENNSYLVANIA TURNPIKE COMMISSION
21 SHALL EACH ESTABLISH A FIVE-YEAR AUTOMATED SPEED ENFORCEMENT
22 SYSTEM PROGRAM NOT LATER THAN 18 MONTHS FOLLOWING THE
23 EFFECTIVE DATE OF THIS SECTION.

24 (2) (I) THE DEPARTMENT AND PENNSYLVANIA TURNPIKE
25 COMMISSION MAY EACH PROMULGATE REGULATIONS FOR THE
26 CERTIFICATION AND THE USE OF AUTOMATED SPEED ENFORCEMENT
27 SYSTEMS.

28 (II) IN ORDER TO FACILITATE THE PROMPT
29 IMPLEMENTATION OF THIS SECTION, REGULATIONS PROMULGATED
30 BY THE DEPARTMENT AND PENNSYLVANIA TURNPIKE COMMISSION

1 UNDER THIS SECTION SHALL BE DEEMED TEMPORARY REGULATIONS
2 AND NOT SUBJECT TO:

3 (A) SECTIONS 201, 202 AND 203 OF THE ACT OF JULY
4 31, 1968 (P.L.769, NO.240), REFERRED TO AS THE
5 COMMONWEALTH DOCUMENTS LAW.

6 (B) THE ACT OF JUNE 25, 1982 (P.L.633, NO.181),
7 KNOWN AS THE REGULATORY REVIEW ACT.

8 (3) (I) THE DEPARTMENT AND PENNSYLVANIA TURNPIKE
9 COMMISSION SHALL EACH SERVE DIRECTLY OR THROUGH A
10 CONTRACTED PRIVATE SERVICE AS THE SYSTEM ADMINISTRATOR OF
11 THE PROGRAM. COMPENSATION UNDER A CONTRACT AUTHORIZED BY
12 THIS PARAGRAPH SHALL BE BASED ONLY UPON THE VALUE OF
13 EQUIPMENT AND SERVICES PROVIDED OR RENDERED IN SUPPORT OF
14 THE AUTOMATED SPEED ENFORCEMENT SYSTEM PROGRAM AND MAY
15 NOT BE BASED IN ANY PART UPON THE QUANTITY OF NOTICES OF
16 VIOLATION ISSUED OR AMOUNT OF FINES IMPOSED OR GENERATED.

17 (II) THE SYSTEM ADMINISTRATOR SHALL PREPARE AND
18 ISSUE NOTICES OF VIOLATION.

19 (III) A RESTRICTED ACCOUNT IS ESTABLISHED IN THE
20 STATE TREASURY FOR FINES REMITTED TO THE DEPARTMENT OR
21 PENNSYLVANIA TURNPIKE COMMISSION, BASED ON WHERE THE
22 VIOLATION OCCURRED. THE SYSTEM ADMINISTRATOR SHALL SEND
23 AN INVOICE TO THE DEPARTMENT OR PENNSYLVANIA TURNPIKE
24 COMMISSION BASED ON THE SERVICES UNDER SUBPARAGRAPH (I).
25 THE DEPARTMENT OR PENNSYLVANIA TURNPIKE COMMISSION SHALL
26 ESTABLISH A RESTRICTED ACCOUNT TO REMIT FINES TO PAY FOR
27 THE ADMINISTRATION OF THE PILOT PROGRAM AND THE SYSTEM
28 ADMINISTRATOR'S INVOICE COSTS. REMAINING FINES SHALL BE
29 ALLOCATED BY THE DEPARTMENT OR PENNSYLVANIA TURNPIKE
30 COMMISSION AS FOLLOWS:

1 (A) SEVENTY-FIVE PERCENT OF THE FINES OVER THE
2 DURATION OF THE FIVE-YEAR PROGRAM FROM VIOLATIONS
3 OCCURRING IN AN AUTOMATED SPEED ENFORCEMENT SYSTEM ON
4 EITHER AN INTERSTATE HIGHWAY MANAGED BY THE
5 DEPARTMENT OR AN INTERSTATE HIGHWAY OR FREEWAY UNDER
6 THE JURISDICTION OF THE PENNSYLVANIA TURNPIKE
7 COMMISSION SHALL BE DEPOSITED INTO A RESTRICTED
8 ACCOUNT ON A QUARTERLY BASIS. THE DEPARTMENT OF
9 REVENUE SHALL, WITHIN 90 DAYS OF THE DATE OF DEPOSIT,
10 TRANSFER TO THE PENNSYLVANIA STATE POLICE AN AMOUNT
11 EQUIVALENT TO THE PREVIOUS QUARTERLY DEPOSIT TO BE
12 USED BY THE PENNSYLVANIA STATE POLICE AS FOLLOWS:

13 (I) FIFTY-FIVE PERCENT OF THE FUNDS SHALL BE
14 DEDICATED AND USED FOR THE PURPOSE OF RECRUITING,
15 TRAINING OR EQUIPPING PENNSYLVANIA STATE POLICE
16 CADETS.

17 (II) FORTY-FIVE PERCENT OF THE FUNDS SHALL
18 BE DEDICATED AND USED TO PAY FOR AN INCREASED
19 PENNSYLVANIA STATE TROOPER PRESENCE IN WORK ZONES
20 ON THE STATE ROAD SYSTEM MANAGED BY THE
21 DEPARTMENT OR THE PENNSYLVANIA TURNPIKE
22 COMMISSION THAT DO NOT UTILIZE CONCRETE BARRIERS.
23 THE ASSIGNMENTS SHALL BE MADE ON AS-NECESSARY
24 BASIS AS DETERMINED BY THE PENNSYLVANIA STATE
25 POLICE. FUNDS UNDER THIS SUBCLAUSE SHALL BE IN
26 ADDITION TO ANY CONTRACTUAL AGREEMENT BETWEEN THE
27 DEPARTMENT OR THE PENNSYLVANIA TURNPIKE
28 COMMISSION AND THE PENNSYLVANIA STATE POLICE FOR
29 ENFORCEMENT IN WORK ZONES ON THE STATE ROAD
30 SYSTEM MANAGED BY THE DEPARTMENT OR THE

1 PENNSYLVANIA TURNPIKE COMMISSION.

2 (B) TWENTY-FIVE PERCENT OF THE FINES OVER THE
3 DURATION OF THE FIVE-YEAR PROGRAM FROM VIOLATIONS
4 OCCURRING IN AN AUTOMATED SPEED ENFORCEMENT SYSTEM
5 SHALL BE TRANSFERRED TO THE DEPARTMENT OR THE
6 PENNSYLVANIA TURNPIKE COMMISSION, WHICHEVER STATE
7 ROAD SYSTEM UTILIZED THE AUTOMATED SPEED ENFORCEMENT
8 SYSTEM, FOR THE PURPOSE OF WORK ZONE SAFETY, TRAFFIC
9 SAFETY AND EDUCATING THE MOTORING PUBLIC ON WORK ZONE
10 SAFETY, AT THE DISCRETION OF THE DEPARTMENT OR
11 PENNSYLVANIA TURNPIKE COMMISSION.

12 (IV) IF THE AMOUNT OF FUNDS UNDER CLAUSE (A) IS
13 LOWER THAN THE AMOUNT OF FUNDS UNDER CLAUSE (A) FOR THE
14 PREVIOUS FISCAL YEAR, FUNDS FROM THE MOTOR LICENSE FUND
15 MAY NOT BE USED TO SUPPLEMENT THE FUNDS FOR THE CURRENT
16 FISCAL YEAR. FUNDING PROVIDED FOR UNDER CLAUSE (A) SHALL
17 BE SUPPLEMENTAL AND SHALL NOT PROHIBIT THE PENNSYLVANIA
18 STATE POLICE FROM OBTAINING ADDITIONAL FUNDING FROM ANY
19 OTHER MEANS.

20 (V) IF THE FIVE-YEAR PROGRAM IS NOT EXTENDED BY THE
21 GENERAL ASSEMBLY, ANY REMAINING FINES REMITTED TO THE
22 DEPARTMENT OR PENNSYLVANIA TURNPIKE COMMISSION SHALL
23 REMAIN WITH THE DEPARTMENT OR PENNSYLVANIA TURNPIKE
24 COMMISSION FOR THE PURPOSE OF WORK ZONE SAFETY, TRAFFIC
25 SAFETY AND EDUCATING THE MOTORING PUBLIC ON WORK ZONE
26 SAFETY, AT THE DISCRETION OF THE DEPARTMENT OR
27 PENNSYLVANIA TURNPIKE COMMISSION.

28 (VI) THE SYSTEM ADMINISTRATOR SHALL PROVIDE AN
29 APPROPRIATE PRINTED FORM BY WHICH OWNERS MAY CHALLENGE A
30 NOTICE OF VIOLATION AND CONVENIENT HEARING HOURS AND

1 TIMES IN EACH OF THE FOLLOWING METROPOLITAN AREAS FOR
2 CHALLENGES TO BE HEARD AS PROVIDED IN THIS SECTION: ERIE,
3 HARRISBURG, PHILADELPHIA, PITTSBURGH AND SCRANTON. THE
4 FORM MAY BE INCLUDED WITH OR AS PART OF THE NOTICE OF
5 VIOLATION.

6 (4) NOT LATER THAN APRIL 1 ANNUALLY, THE DEPARTMENT AND
7 PENNSYLVANIA TURNPIKE COMMISSION SHALL SUBMIT A REPORT ON THE
8 PROGRAM FOR THE PRECEDING CALENDAR YEAR TO THE CHAIRPERSON
9 AND MINORITY CHAIRPERSON OF THE TRANSPORTATION COMMITTEE OF
10 THE SENATE AND THE CHAIRPERSON AND MINORITY CHAIRPERSON OF
11 THE TRANSPORTATION COMMITTEE OF THE HOUSE OF REPRESENTATIVES.
12 THE REPORT SHALL BE A PUBLIC RECORD UNDER THE RIGHT-TO-KNOW
13 LAW AND INCLUDE:

14 (I) THE NUMBER OF VEHICULAR ACCIDENTS AND RELATED
15 SERIOUS INJURIES AND DEATHS IN ALL WORK ZONES AND IN
16 AUTOMATED SPEED ENFORCEMENT WORK AREAS IN WHICH THE
17 PROGRAM OPERATED.

18 (II) SPEED DATA.

19 (III) THE NUMBER OF NOTICES OF VIOLATION ISSUED.

20 (IV) THE AMOUNT OF FINES IMPOSED AND COLLECTED.

21 (V) AMOUNTS PAID UNDER CONTRACTS AUTHORIZED BY THIS
22 SECTION.

23 (VI) THE NUMBER OF HOURS OF PENNSYLVANIA STATE
24 POLICE PRESENCE THAT WERE PROVIDED AS A RESULT OF THE
25 FUNDS UNDER PARAGRAPH (3) (III) (A) (II).

26 (I) PAYMENT OF FINE.--

27 (1) AN OWNER MAY ADMIT RESPONSIBILITY FOR THE VIOLATION
28 AND PAY THE FINE PROVIDED IN THE NOTICE PERSONALLY, THROUGH
29 AN AUTHORIZED AGENT, ELECTRONICALLY OR BY MAILING BOTH
30 PAYMENT AND THE NOTICE OF VIOLATION TO THE SYSTEM

1 ADMINISTRATOR.

2 (2) PAYMENT BY MAIL MUST BE MADE ONLY BY MONEY ORDER,
3 CREDIT CARD OR CHECK MADE PAYABLE TO THE COMMONWEALTH.

4 (3) PAYMENT OF THE FINE SHALL OPERATE AS A FINAL
5 DISPOSITION OF THE CASE.

6 (4) IF PAYMENT IS NOT RECEIVED WITHIN 90 DAYS OF
7 ORIGINAL NOTICE, THE DEPARTMENT OR PENNSYLVANIA TURNPIKE
8 COMMISSION MAY TURN THE MATTER OVER TO APPLICABLE CREDIT
9 COLLECTION AGENCIES.

10 (J) CONTEST.--

11 (1) AN OWNER MAY, WITHIN 30 DAYS OF THE MAILING OF THE
12 NOTICE, REQUEST A HEARING TO CONTEST LIABILITY BY APPEARING
13 BEFORE THE SYSTEM ADMINISTRATOR EITHER PERSONALLY OR BY AN
14 AUTHORIZED AGENT OR BY MAILING A REQUEST IN WRITING ON THE
15 PRESCRIBED FORM. APPEARANCES IN PERSON SHALL BE ONLY AT THE
16 LOCATIONS AND TIMES SET BY THE SYSTEM ADMINISTRATOR.

17 (2) UPON RECEIPT OF A HEARING REQUEST, THE SYSTEM
18 ADMINISTRATOR SHALL IN A TIMELY MANNER SCHEDULE THE MATTER
19 BEFORE A HEARING OFFICER DESIGNATED BY THE DEPARTMENT OR
20 PENNSYLVANIA TURNPIKE COMMISSION. WRITTEN NOTICE OF THE DATE,
21 TIME AND PLACE OF HEARING MUST BE PRESENTED OR SENT BY FIRST
22 CLASS MAIL TO THE OWNER.

23 (3) THE HEARING SHALL BE INFORMAL AND THE RULES OF
24 EVIDENCE SHALL NOT APPLY. THE DECISION OF THE HEARING OFFICER
25 SHALL BE FINAL, SUBJECT TO THE RIGHT OF THE OWNER TO APPEAL
26 THE DECISION.

27 (4) IF THE OWNER REQUESTS IN WRITING THAT THE DECISION
28 OF THE HEARING OFFICER BE APPEALED, THE SYSTEM ADMINISTRATOR
29 SHALL FILE THE NOTICE OF VIOLATION AND SUPPORTING DOCUMENTS
30 WITH THE OFFICE OF THE MAGISTERIAL DISTRICT JUDGE FOR THE

1 MAGISTERIAL DISTRICT WHERE THE VIOLATION OCCURRED, AND THE
2 MAGISTERIAL DISTRICT JUDGE SHALL HEAR AND DECIDE THE MATTER
3 DE NOVO.

4 (K) EXPIRATION.--THIS SECTION SHALL EXPIRE FIVE YEARS FROM
5 THE EFFECTIVE DATE OF THIS SECTION.

6 SECTION 4. THE SECRETARY OF TRANSPORTATION OR THE CHAIRMAN
7 OF THE PENNSYLVANIA TURNPIKE COMMISSION SHALL PUBLISH A NOTICE
8 IN THE PENNSYLVANIA BULLETIN WHEN AN AUTOMATED SPEED ENFORCEMENT
9 SYSTEM IS OPERATIONAL IN THIS COMMONWEALTH.

10 SECTION 5. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

11 (1) THE ADDITION OF 75 PA.C.S. § 3368.1(E) SHALL TAKE
12 EFFECT 60 DAYS AFTER PUBLICATION IN THE PENNSYLVANIA BULLETIN
13 OF THE NOTICE UNDER SECTION 4.

14 (2) THE ADDITION OF 75 PA.C.S. § 3368.1(H) (2) SHALL TAKE
15 EFFECT IN 45 DAYS.

16 (3) SECTION 4 AND THIS SECTION SHALL TAKE EFFECT
17 IMMEDIATELY.

18 (4) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 60
19 DAYS.